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**HONOURABLE SRI JUSTICE B.PRAKASH RAO**

**AND**

**HONOURABLE SRI JUSTICE M.VENKATESWARA REDDY**

**WRIT PETITION NO:4916 of 1998**

**DATED: 23-01-2007**

Between:

Smt.Chand Bi

**..... PETITIONER**

AND

1. The Special Court under A.P.Land Grabbing (Prohibition) Act at Hyderabad and another.

**.....RESPONDENTS**

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**ORDER:** (per The Hon'ble Sri Justice B.Prakash Rao)

The petitioner herein by way of this writ petition under Article 226 of the Constitution of India seeks to assail the orders in L.G.C.No.67 of 1996 dated 17-12-1997 on the file of the Special Court under A.P.Land Grabbing (Prohibition) Act, Hyderabad, whereunder the application filed by the respondent herein, to declare that the schedule property is a Government Shikam land and the petitioner being a land grabber to evict him, was allowed.

Heard Mr.Mohd.Ghulam Hussain, learned counsel for the petitioner and the learned Government Pleader for Revenue (Assignments) on behalf of the respondents.

The case of respondent No.2 who is the applicant before the Tribunal is

to the effect that the schedule property is in T.S.No.5 Block-B Ward-80 relating to old Survey No.9 of Khairatabad village and which is a Shikam Talab Sarkari in T.S.L.R and it is a part of Shikam Hussain Sagar tank. There has been a survey in the year 1965 to 1976 and a notification was issued bearing No.27 dated
22-04-1976 under Section 13 of the A.P.Survey and Boundaries Act showing the said land and it has become final. On verification it was found that the petitioner grabbed the Government Shikam Talab Sarkari without any right, title or interest. Hence, he has been issued a notice under the provisions of A.P.Land Encroachment Act, 1905 and no objection has been filed and finally an order of eviction was passed under Section 6 of the said Act. However, the said order was not implemented. Hence, the petitioner is a land grabber and liable to be evicted.

Contesting the claim of respondent No.2 in the said application the case of the petitioner was that of total denial as to the right of the applicant/respondent No.2 in respect of the said land purchased by her in pursuance of the sale deed dated
16-01-1975 which according to her is part of Maktha Madasa which is a private land and therefore, it cannot be treated either as a Shikam land of the tank nor does it belong to respondent No.2/the Government. Further, it has also been pointed that her vendor was in possession of the schedule property and constructed house in 1962 and since then he has been in possession and enjoyment all along and no one prior thereto for more than a statutory period has been in possession. Hence, it cannot be said that the petitioner is a land grabber.

On these and other allegations as contained in the respective pleadings set up by both sides respondent No.1 framed issues and conducted an enquiry wherein on behalf of respondent No.2 P.W.1 a local MRO was examined and marked Exs.A-1 to A-5. On behalf of the petitioner she was examined as R.W.1 and marked Exs.B-1 to B-21. On consideration of the entire evidence and material on record the respondent No.1 found that the petitioner is a land grabber and thus liable to be evicted. Hence, this writ petition.

Mr.Ghulam Hussain, learned counsel for the petitioner, strenuously contended that having regard to the valid registered document existing in her favour dated 16-01-1975 which is marked as Ex.B-1 and also the other documents in support of the possession in Exs.B-2 to 21, it cannot be said that the petitioner is a land grabber and in fact she is in possession and enjoyment of her own right and title in respect of a private property which has been known as Maktha Madasa and not a Shikam Talab.

Learned Government Pleader sought to repel the submissions made on behalf of the petitioner and submitted that having regard to the supporting evidence available on record in Exs.A-1 to A-5, there is no ambiguity in the case to warrant any interference.

On considering the submissions made and also on perusal of the material on record the questions which have to be seen in this case are as to whether under the facts and circumstances of the case the petitioner is a land grabber and also whether the finding arrived as such by respondent No.1 is

liable to be interfered.

The undisputed facts in the present case are to the effect that the petitioner is in possession of the land in question and the same, according to her, is purchased under Ex.B-1 dated
16-01-1975 which is originally in Urdu and the translation of which is filed as Ex.B-2 in support of which she also filed Ex.B-3 to B-21 which includes several house tax receipts, property tax receipts and electricity bills from electricity department. These documents would, no doubt, show the possession of the petitioner since the date of her purchase from 16-01-1975. In support of their case respondent No.2 is sought to place reliance on Ex.A-1 dated
22-04-1976 which is a notification issued in Hyderabad District Gazette under the provisions of A.P.Survey and Boundaries Act and the town survey entry concerned is being marked as Ex.A-2. The rough sketch of the schedule land as Ex.A-3. These documents would amply show that the land sought to be claimed by the petitioner is being declared and notified as a Shikam Talab. Admittedly, no challenge has been made in these proceedings by the petitioner at any point of time and the same has become final. Ex.A-4 is a notice issued to the petitioner on 10-02-1994 under the provisions of the A.P.Land Encroachment Act and Ex.A-5 is the proceedings of the R.D.O., Hyderabad dated 08-03-1996. There is also no challenge to these proceedings by the petitioner and these proceedings have also become final.

Be that as it may, even on a reading of the sale deed which is pressed into service on behalf of the petitioner and which is marked as Ex.B-1 and which is originally in Urdu, no particulars have been shown therein in respect of the title of the vendor except showing that she has been in possession of the property as a Maktha Masada.

What exactly the Maktha Masada or under which ground the same has been constituted as private property has not been referred to either with reference to the title or in the said document. Even though an attempt was made by the learned counsel for the petitioner from P.W.1 to show that Maktha Masada is a private land and not part of the Shikam Talab, however, that itself is not a conclusive proof as long as the petitioner does not establish the existence of any such private land of any independent individual nor any document has been filed to show the existence of any private propriety rights in respect of Maktha Masada and the property named by the petitioner is part thereof.

In the absence of any such original title being traced the petitioner cannot simply fall back on the mere mention of the property as Maktha Masada to claim it as a private property. On the findings of the Court below, supported by the evidence and material on record, we do not find any perversity or any want of material to support. Hence, there are no merits in the above writ petition.

The Writ Petition is accordingly dismissed. No order as to costs.

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B.PRAKASH RAO, J

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M.VENKATESWARA REDDY, J

23rd January, 2007

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